

NEWS

NEW JERSEY DEPARTMENT OF

LWD

LABOR AND WORKFORCE DEVELOPMENT
n j . g o v / l a b o r

Contact: Robert Corrales

Tel: (609) 292-0306

Fax: (609) 777-3634

State of New Jersey
Department of Labor and
Workforce Development

PO Box 110

Trenton, New Jersey

08625-0110

RE: *Proposed Readoption: N.J.A.C. 12:105*
New Jersey State Board of Mediation
Arbitration

Attached please find the above-referenced matter which was published in the Monday, December 5, 2005 *New Jersey Register*.

If you have any questions, please contact David Fish, Regulatory Officer at 609-292-2789.

LABOR AND WORKFORCE DEVELOPMENT

(a)

NEW JERSEY STATE BOARD OF MEDIATION

Arbitration

Proposed Readoption: N.J.A.C. 12:105

Authorized By: A.J. Sabath, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 34:13A-1 et seq., specifically, 34:13A-11.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-443.

A public hearing on the proposed readoption will be held on the following date at the following location:

Thursday, December 29, 2005

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

John Fitch Plaza

13th Floor Auditorium

Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by February 3, 2006 to:

David Fish, Regulatory Officer

Office of Legal and Regulatory Services

PO Box 110, 13th floor

Trenton, New Jersey 08625-0110

Fax: (609) 292-8246

If you need this document in Braille, large print or audio cassette, please contact the Office of Marketing at (609) 292-7832 or NJ Relay (TTY) 1-800-852-7899.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 12:105, which governs arbitration through the New Jersey State Board of Mediation, is scheduled to expire on May 7, 2006. The chapter applies to private employers and employees who either have provisions for arbitration in their collective bargaining agreements or who voluntarily agree to abide by the rules for arbitration. The Department of Labor and Workforce Development and the New Jersey State Board of Mediation have reviewed these rules and have determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated and are, therefore, proposing them for readoption at this time.

A summary of the subchapters of N.J.A.C. 12:105 follows:

N.J.A.C. 12:105-1 sets forth the general provisions of the chapter and states that the rules are deemed to be a part of an arbitration agreement between parties whenever in their collective bargaining agreements or submissions they have provided for arbitration through the New Jersey State Board of Mediation. The subchapter also sets forth the method of interpretation and application of the rules.

N.J.A.C. 12:105-2 addresses the initiation of arbitration proceedings. Specifically, the subchapter sets forth the methods by which an arbitration proceeding can be commenced, such as through a collective bargaining agreement. Additionally, arbitration can be initiated by the Board, regardless of the existence of a collective bargaining agreement, upon filing a written agreement between the parties to arbitrate under the rules of the Board. The subchapter also addresses the method for requesting expedited arbitration and procedural determinations.

N.J.A.C. 12:105-3 concerns the appointment of arbitrators. The subchapter discusses the method for nomination of arbitrators, conflicts of interest, and the filling of vacancies.

N.J.A.C. 12:105-4 addresses the arbitration hearing itself. The subchapter outlines the procedures to be followed for notifying the parties of the date, time and place of the hearing. The subchapter also requires

arbitrators to sign an oath and requires the parties to sign an original and three copies of an arbitrator submission form prior to arbitration. The subchapter explains the legal relationship between an arbitrator and the parties to an arbitration. In addition, the subchapter addresses postponements and adjournments, representation by counsel, the taking of a stenographic record, attendance at hearings, decision-making by the arbitration board, evidence, the submission of briefs, the inspection authority of arbitrators, close of hearings and reopening of hearings.

N.J.A.C. 12:105-5 concerns the award made by an arbitrator. The subchapter sets forth the time limits for rendering decisions and the recourse for failure to render a timely decision. The subchapter also prescribes the form in which an award shall be made and allows an arbitrator, upon agreement of the parties, to set forth the terms of a settlement in an award. The remainder of the subchapter addresses the delivery of the award, explains that an award is final and binding subject only to due process requirements, sets forth the arbitrator's status subsequent to the rendering of a decision, and establishes the waiver of a right to object.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption have had and would continue to have a positive social impact in that they have greatly assisted and would continue to greatly assist in the resolution of disputes between private sector employers and their employees.

Economic Impact

The rules proposed for readoption have provided and would continue to provide procedures to be followed in arbitration proceedings between private sector employers and employees. These arbitrations would continue to reduce conflicts, thereby minimizing economic loss to both employers and employees, as well as citizens who utilize employer products and services. The use of arbitration may also result in cost reductions in the resolution of disputes between labor and management.

Federal Standards Statement

The rules proposed for readoption do not contain any standards or requirements which exceed those imposed under the Federal Labor Management Relations Act, 29 U.S.C. §141, et seq. There are no other Federal standards applicable to the rules proposed for readoption, therefore, a Federal standards analysis is not necessary.

Jobs Impact

The Department does not anticipate an increase or decrease in jobs as a result of the rules proposed for readoption.

Agriculture Industry Impact

The rules proposed for readoption would have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption would not impose recordkeeping, reporting or compliance requirements on employers, including small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16, et seq. The procedures established for arbitration (see Summary above) would be applied to all businesses, regardless of size, when those businesses are subject to the rules pursuant to either a collective bargaining agreement or by voluntary consent. This arbitration process is implemented by choice and is designed to benefit all parties concerned.

Smart Growth Impact

The rules proposed for readoption would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:105.